

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

DARIN DERAILE HARRIS, SR,	§	
	§	
Petitioner,	§	
VS.	§	CIVIL ACTION NO. C-10-39
	§	
ERNEST H GUTIERREZ, <i>et al</i> ,	§	
	§	
Respondents.	§	

**ORDER ADOPTING MEMORANDUM AND**  
**RECOMMENDATION TO GRANT**  
**RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

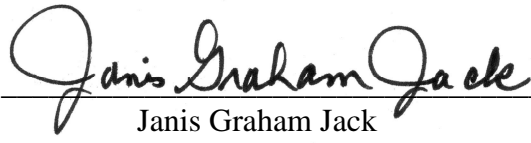
On July 16, 2010, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that respondent's motion for summary judgment (D.E. 12) be granted, that petitioner's habeas petition (D.E. 1) be dismissed, and that petitioner be denied a certificate of appealability. On August 9, 2010, petitioner filed Objections to the Magistrate's Recommendations.

Having reviewed the findings of fact and conclusions of law therein, as well as the pleadings on file and petitioner's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, *see Koetting v. Thompson*, 995 F.2d 37 (5th Cir. 1993), 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, it is ORDERED that respondent's motion for summary judgment is granted and petitioner's habeas petition is dismissed. Certificate of appealability is denied.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 1st day of December, 2010.

  
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Janis Graham Jack  
United States District Judge